

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE: JOHNSON & JOHNSON
TALCUM POWDER PRODUCTS
MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY
LITIGATION**

Civil Action No. 3:16-md-2738-FLW-LHG

MDL No. 2738

This Document Relates to All Cases Filed
Against Defendant Personal Care Products
Council

**THE PLAINTIFFS' STEERING COMMITTEE'S RESPONSE TO DEFENDANT
PERSONAL CARE PRODUCTS COUNCIL'S STATEMENT OF UNDISPUTED FACTS**

1. Undisputed.
2. Undisputed.
3. Undisputed.
4. Undisputed.
5. Undisputed.
6. Undisputed, subject to clarification that the court found PCPC made a prima facie showing that its acts "were made in furtherance of the right of advocacy on issues of public interest" in an under-developed record.
7. Undisputed, subject to clarification that the U.S. Food and Drug Administration ("FDA") has general regulatory authority over cosmetics, however, PCPC boasts that they voluntarily, self-regulate the cosmetics industry through their Cosmetic Ingredient Review ("CIR") program

and considered by PCPC as the linchpin for their voluntary, self-regulation of cosmetics. *See* PCPC_MDL00015232 (Exhibit 51); PCPC's 2003 Annual Report (Exhibit 52).

8. Undisputed, subject to the clarification that the FDA's findings are based on inaccurate, industry studies.

9. Undisputed, the document speaks for itself.

10. Disputed to the extent that PCPC, with the aid of its Talc Task Force, developed these mandatory testing guidelines for the determination of asbestos in talc to be used in cosmetics as a part of their voluntary, self-regulation. (Talc Task Force Minutes, Feb. 7, 1975, CPC-POLAKOWTRSCPT00000266, Exhibit 1; Talc Task Force Minutes, Mar. 11, 1976, JNJ000254100, Exhibit 2; Talc Subcommittee Minutes, Mar. 15, 1976, CPC-POLAKOWTRSCPT00000326, Exhibit 3; Talc Task Force Minutes, Sept. 9, 1976, WCD000080, Exhibit 4; Talc Task Force Minutes, Sept. 29, 1976, WCD000200, Exhibit 5; Talc Task Force Minutes, Dec. 6, 1977, JNJ 000307294, Exhibit 6)

11. Undisputed.

12. Undisputed in that Johnson & Johnson Consumer, Inc. performed additional testing than that required under CTFA J4-1, but disputed that their testing was "gold standard" testing.

13. Undisputed, subject to clarification that some, but not all, information regarding the link between talc-based body powders and ovarian cancer was available to government regulators, scientists, and the public.

14. Undisputed, subject to clarification that "the epidemiological evidence suggests that use of cosmetic talc in the perineal area may be associated with ovarian cancer risk" and after accounting for potential bias and confounding IARC found the evidence to be sufficient for

classifying “perineal use of talc-based body powder” as “possibly carcinogenic to human beings.”

15. Disputed. This statement is an incomplete paraphrase of the authors’ introduction that the epidemiologic evidence supports a modest association between genital talc use and ovarian cancer. Plaintiffs respectfully refer the Court to this study for a full review of their epidemiologic study.

16. Disputed to the extent Defendant’s characterization of the contents and statements contained on PCPC’s website differs from its actual content, which speaks for itself.

17. Disputed to the extent Defendant’s characterization of the contents and statements contained on the websites differ from their actual content, which speaks for itself, and ignores websites which do list perineal use of talc as a risk factor for ovarian cancer. *See, e.g.*, Health Canada. A draft screening assessment of talc proposes that it may be harmful to human health – infographic (at: <https://www.canada.ca/en/health-canada/services/publications/healthy-living/talc-infographic-2018.html>).

18. Undisputed, subject to clarification that the published summary does not represent a policy statement of the National Cancer Institute (“NCI”) or the National Institute of Health (“NIH”).

Dated: June 8, 2020

Respectfully submitted,

/s/ Michelle A. Parfitt

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